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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/658,298	09/08/2000	Kenneth D. Simone JR.	068520.0110	3516
7590	09/09/2004		EXAMINER	
Baker Botts LLP 2001 Ross Avenue Dallas, TX 75201-2980				PRIETO, BEATRIZ
		ART UNIT		PAPER NUMBER
		2142		

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/658,298	SIMONE, KENNETH D.	
	Examiner	Art Unit	
	Prieto B	2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 07 July 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-14 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |



DETAILED ACTION

1. This communication is in response to amendment filed 07/07/04, claims 1 and 7 have been amended, claims 11-14 have been added. Claims 1-14 remain pending and have been examined.
2. Applicant remarks indicating that said "said function definitions", "said set" and "the corresponding function definition" refer to "a set of predetermined function definitions", have been considered and will be applied.

Double Patenting Rejection

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1 and 7 of instant application are unpatentable under the judicially created doctrine of "obviousness-type" double patenting with respect to claim 1 of patent 6,757,888 issued 06/29/04. Although the conflicting claims are not identical, they are not patentable distinct from each other because claims 1 and 7 of instant application are obvious over patent claim 1 in that patent claim 1 contains all the limitations of claims 1 and 7 of instant application. Claims 1 and 7 of instant application therefore is not patently distinct from the earlier patent claim and as such is unpatentable for obvious-type patenting.

5. Claims 1 and 7 of instant application are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,757,888 issued 06/29/04 in view of NetBuilder: an environment for integrating tool and people, Dabke, P. et. al. 1998, pages 465-472.

Dabke et. al. discloses a process (activities) definitions in a distributed network environment, including the integrations of individual diverse tools into programs that define a process, these programs are stored for future user including being invoked and executed supporting difference communication protocols supporting the execution of theses modules (invocation of an module may result in running a program) (components) connected via links (links shown in solid lines on Fig. 1 between different modules connect input and output ports) that support communication between the modules which forward information (e.g. result of the execution of one module to other connected modules) among themselves and enable the execution of components over the network (see page 465-467).

It would have been obvious at the time the invention was made to use the teachings of the patented in combination with Dabke et. al. teachings for storing process definitions representing/defining a plurality of diverse predetermined functions distributed over the network, and transmitting a communication over a communication link. Motivation would be enable the integration of diverse tools (or modules) into executable program that define process, and have those programs for capturing workflow (process) automation executed and store for future use in a distributed environment including heterogeneous computing networks.

6. Claims 1 and 7 of instant application are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,651,121 in view of Dougherty et al. U.S. Patent No. 6,370,575 (hereafter referred to as Dougherty). The conflicting claims represent the same invention and differ by feature(s) that would have been obvious.

7. Regarding claims 1 and 7, the features of these claims are all taught by claim 1 of patent 6,651,121, however the features of transmitting data ("a communication") over a communication link and the executing a "project" process, task or activity definition or specification (e.g. stored as a file or program or set of instructions) is taught by Dougherty (abstract and column 10, lines 13-19). It would have been obvious to one ordinary skilled in the art at the time the invention was made to include the teachings of Dougherty for supporting the communication between distant organizations as discussed by Dougherty.

8. Claims 1 and 7 of instant application are unpatentable under the judicially created doctrine of "obviousness-type" double patenting with respect to claims 1 and 11 of application 09/658,563 allowed 07/29/04. Although the conflicting claims are not identical, they are not patentable distinct from each other because claims 1 and 7 of instant application are obvious over claims 1 and 11 of allowed application, in that claims 1 and 11 of allowed application contains all the limitations of claims 1 and 7 of instant application. Claims 1 and 7 of instant application therefore is not patentably distinct from the earlier patent claim and as such is unpatentable for obvious-type patenting.

9. For the purposes of clarification, the invention relates to the process definition of manufacturing a paper or electronic catalog (p. 14) where processes are represented by modules interconnected and for performing sequential steps of the process. Claim terminology interpretation in light of the specification: function definition means process definitions (p. 8); project definition means a process definition comprised of module(s) that represent process(es) (p. 12); function portions means modules that represent or carry out processes/functions (p. 9-10 and 14); a function "portion" is process e.g. main or sub-process, represented by a module (p. 12 and 46); source/destination portion means a source/destination modules representing processing levels interconnected by binding lines through data flow or is exchanged between modules (p. 10); data source/destination means file storage from where files are accessed/deposit, e.g. directories (p. 8), or a source module is a database (p. 19 and 55) and binding portions means an interconnection between the modules through which data flows between modules, i.e. data is outputted via a modules output port and received by another module via an input port (p.10-11, 18 and 48), modules are "bound" interconnected by the ports via which data is transferred or "routed" (p. 12); image data refers to computer files containing digital images (p. 14); "editing" image data refers to adding, updating or modifying images (p. 15).

Claim Rejection under 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1 and 7 as amended are rejected under 35 U.S.C. 102(b) as being anticipated by McCubbrey et. al. U.S. Patent No. 4,860,375 (McCubbrey hereafter).

Regarding claims 1 and 7, Mc Cubbrey teaches substantial features of the invention as claimed, including

- a set of predetermined process definition, which are different (system 10 of Fig. 1);
- an executable processes definition for modifying “editing” image data (col 3/lines 23-41, automated executable programmed processing stages see col 5/lines 8-13, execution program col 11/lines 65-12/line 11);
- a plurality of components corresponding to one function of the predetermined process definition (components 24, 26, 28, 30, or 34 of Fig. 1);
- an input and output port functionally related in the predetermined process definition (pipeline controller 26 of Fig. 1, providing input-output unidirectional data paths with route image data from a source component image memory to a destination component image combiner through the pipeline input/output ports col 2/lines 30-60);
- a source component (24 of Fig. 1) defining a data source and defining an output port through which image data from the source is supplied (col 2/lines 30-64, col 3/lines 11-22);
- a destination component (element 28 of Fig. 1) defining a data destination and defining an input through which image data from the supplying source is received (col 2/lines 30-64, col 3/lines 2-10);
- binding component (element 26 of Fig. 1) interconnecting component path that associated a input port with an output port (col 2/lines 30-60);
- executing the process definition col 3/lines 23-41, automated executable programmed processing stages see col 5/lines 8-13, execution program col 11/lines 65-12/line 11);
- forwarding through a communication link (34 of Fig. 1) after modifying said image data during the execution of said process definition to a predetermined component (col 3/lines 6-10, 42-57).

Claim Rejection under 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Workflow management coalition the workflow reference model, Hollingsworth, D., TC00-1003, Jan 95 in view of Iida U.S. Patent No. 5,974,431

Regarding claim 1, Hollingsworth teaches substantial features of the invention as claimed, including

- providing a set of predetermined process definitions (see sections 2.1-2.1.1, pages 6-8) including different process activity steps within the process (page 14),
- one process definition defining a process for processing data (section 2.1.3 on page 8, subprocesses suited to specific data type see page 19) including image data (section 2.2.1 on page 10) including updating or modifying, i.e. editing image data (*);
- storing a project definition as executable instances each corresponding to a function definition in the set, executable by workflow engines to perform functions according to the definitions, i.e. workflow logic execution or run-time (section 2.1.1 on page 6, process definition on page 12, project definition see section 2.2.5); the process definition further includes;
- a plurality of function components, entities, tasks, activities “portions” which each correspond to one of said function definitions in said set of predetermined function definitions (components that handle/support operations or functions see page 12),
- each function definition define interfaces (e.g. one input/output ports) that are functionally related (e.g. output supplies to an input) (Fig. 2 on page 9) according to the corresponding function definition (distribution of information supported by interfaces or points which use communication mechanism for passing messages between application components see section 2.1.4 on page 8-9, see interfaces definitions on page 9, see import/export interface (i.e. input/output port) section 3.4.2 on pages 28-29);
- a “source” component, defining a “data source” and defining an output interface “port” through which said data from the data source can be produced (file store or master source page 17, accessing an object store using a defined an object name and access path via API to internetworking see p. 26-27, API are points of interchange between the workflow components see p. 20-21, see import/export interfaces section 3.4.2 on p. 28);
- a “destination” component defining a “destination data” and an input interface “port” through which data from the data source is received (data is distributed across individual components from a source see page 17, see definition interchange wherein a generated output “source portion” of one component is used as on input in another “destination portion”, see page 29, Fig. 9);
- “binding information” which includes connection between an input and output interface “port” through which data flows between the associated modules or components (data flow between components or products via communication mechanisms section 2.1.3, interfaces role definition see p. 15 data interchange format definition between identified components is defined for each input/output interface Fig. 6, p. 20, language bindings supporting interfaces see p.46)

executing said project definitions (workflow logic) by an engine (see p. 6) or executed by a workflow enactment software (p. 12, see section 3.3.2 p. 22); and

transmitting a communication through a communication mechanism (section 2.1.4), transmitting after processing data during execution of said project definition (Fig. 2 sequential execution of activity steps, interfaces supporting data transmission between the steps p. 9, sequential processing supported by data exchange p. 49); although Hollingsworth teaches the processing of image data in an image processing project definition and object operations including retrieval and setting of object attributes, including processing data between the source and destination component discussed above, it does not explicitly teach adapting, the modifying, assembling image data;

Iida a system/method relating to automated processing of data (abstract), the system of Fig. 1 including a source module (4) comprising image data placed therein (col 3/lines 45-53, col 4/lines 19-22) outputted to an module (13) which edits the image data retrieved from the source module (col 3/lines 31-35) outputted to a destination module (5) (col 3/lines 35-37, 54-65).

It would have been obvious to one ordinary skilled in the art at the time the invention was made given the suggestion of Hollingsworth of the applicability of his teachings to image processing applicable in other IT application, the teachings of Iida for image processing would be readily apparent. One would be motivated to apply the secondary reference's teachings because in doing so multiple user have available for retrieval image data in one of several formats including image data and document data or a combination thereof, wherein the common source library database may store any type of data which can be repeatedly used.

Regarding claim 2, transmitting as executing is completed (Hollingsworth: Fig. 2, p. 9)

Regarding claim 3, formatting include formatting an email (Hollingsworth: section 2.2.3, 2.1.4, data conversion see p. 25, email conversion between modules see p. 26)

Regarding claim 4, communication link includes a network (Hollingsworth: section 2.1.4, data transfer between modules is networked)

Regarding claim 5, Internet (Hollingsworth: Internet based management p. 53)

Regarding claim 6, sending communication (Hollingsworth Fig. 2, p. 9)

Regarding claims 7 and 8-10 these claims comprises the computer-readable medium with a computer program, which performs the method of claims 1, and 2, 3, 6, respectively, same rationale of rejection is applicable.

Regarding claim 11, transmitting after processing activity or step (Hollingsworth: Fig. 2, p. 9), processing activity including image editing (Iida: col 3/lines 31-35).

Regarding claim 12, communication identifies an occurrence of a predetermined condition to initiate a subsequent process (Hollingsworth: Fig. 2, p. 9).

Regarding claims 13-14, these claims comprise the computer-readable medium with a computer executable program, which performs the method of claims 11-12, same rationale of rejection is applicable.

14. Applicant's arguments filed 07/07/04 with respect to claim 1 and 7 have been considered but are moot in view of the new ground(s) of rejection.

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prieto, B. whose telephone number is (703) 305-0750. The Examiner can normally be reached on Monday-Friday from 6:00 to 3:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's Supervisor, Jack B. Harvey can be reached on (703) 305-9705. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800/4700.

Information regarding the status of an application may be obtained fro the Patent Application Information Retrieval (PAIR) system, status information for published application may be obtained from either Private or Public PAIR, for unpublished application Private PAIR only (see <http://pair-direct.uspto.gov> or the Electronic Business Center at 866-217-9197 (toll-free)).

Any response to this final action should be mailed to:

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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington VA, Sixth Floor (Receptionist).

B. Prieto
B. Prieto
TC 2100
Patent Examiner
September 6, 2004